

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1179 be amended to read as follows:

- 1 Page 3, between lines 33 and 34, begin a new paragraph and insert:
- 2 "SECTION 6. IC 28-1-23-17 IS ADDED TO THE INDIANA
- 3 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 4 [EFFECTIVE JULY 1, 2005]: **Sec. 17. (a) Subject to IC 28-11-3-6,**
- 5 **this section applies to every financial institution (as defined in**
- 6 **IC 28-1-1-3) and to other corporations and individuals that may**
- 7 **lawfully be subjected to the provisions of this article.**
- 8 **(b) As used in this section, "automated teller machine" means**
- 9 **a piece of unmanned electronic or mechanical equipment that**
- 10 **performs routine financial transactions for authorized users.**
- 11 **(c) As used in this section, "automated teller machine operator"**
- 12 **means any person that:**
- 13 **(1) operates an automated teller machine at which a consumer**
- 14 **may initiate an electronic fund transfer; and**
- 15 **(2) is not the consumer's home financial institution.**
- 16 **(d) As used in this section, "electronic fund transfer" has the**
- 17 **meaning set forth 15 U.S.C. 1693a(6). The term includes a**
- 18 **transaction that involves a balance inquiry initiated by a consumer**
- 19 **in the same manner as an electronic fund transfer, whether or not**
- 20 **the consumer initiates a transfer of funds in the course of the**
- 21 **transaction.**
- 22 **(e) As used in this section, "home financial institution" means**
- 23 **the financial institution that holds a consumer's account from or to**
- 24 **which an electronic transfer is made under this section.**
- 25 **(f) As used in this section, "host transfer service" means any**

1 electronic fund transfer made by an automated teller machine
 2 operator in connection with a transaction initiated by a consumer
 3 at an automated teller machine operated by the automated teller
 4 machine operator.

5 (g) An automated teller machine operator that provides host
 6 transfer services to a consumer shall provide notice, in the manner
 7 required by subsection (h), to the consumer of any fee imposed by:

8 (1) the automated teller machine operator for providing the
 9 host transfer services; and

10 (2) the consumer's home financial institution for the
 11 consumer's use of the automated teller machine operated by
 12 the automated teller machine operator.

13 (h) The notice required under subsection (g) must:

14 (1) be posted in a prominent and conspicuous location on or
 15 at the automated teller machine at which the electronic fund
 16 transfer is initiated by the consumer; and

17 (2) except as provided in subsection (i), appear on:

18 (A) the screen of the automated teller machine; or

19 (B) a paper notice issued from the machine;

20 after the transaction is initiated and before the consumer is
 21 irrevocably committed to completing the transaction.

22 (i) Before January 1, 2007, subsection (h)(2) does not apply to an
 23 automated teller machine that:

24 (1) is opened or established by a financial institution before
 25 July 1, 2005;

26 (2) is in operation after June 30, 2005; and

27 (3) lacks the technical capability to provide the notice required
 28 by this section in the form required by subsection (h)(2).

29 After June 30, 2005, a financial institution subject to this section
 30 may not open or establish an automated teller machine in any
 31 location in Indiana, or as permitted by the laws of the state in
 32 which the automated teller machine is to be located, unless the
 33 automated teller machine has the technical capability to provide
 34 the notice required by this section in the form required by
 35 subsection (h)(2).

36 (j) A consumer's home financial institution shall provide written
 37 notice of any fee described in subsection (g)(2) to each automated
 38 teller machine operator that operates one (1) or more automated
 39 teller machines:

40 (1) within an automatic teller machine network to which the
 41 home financial institution belongs; or

42 (2) at which the home financial institution's customers may
 43 otherwise initiate an electronic fund transfer.

44 The home financial institution shall provide the notice required by
 45 this subsection not later than sixty (60) days before the fee
 46 described in subsection (g)(2) takes effect or is changed by the

home financial institution.

(k) A fee may not be imposed by:

- (1) an automated teller machine operator; or
- (2) the home financial institution of a consumer;

for the performance of a host transfer service by the automated teller machine operator on behalf of the consumer unless the consumer receives the notice required under subsection (g) and elects to continue in the manner necessary to effect the service after receiving the notice.

(l) The department may, by acting alone or jointly with a financial institution's primary federal regulator, exercise the department's enforcement powers under IC 28-11-4 to ensure compliance with this section. However, this section does not affect the rights, liabilities, or responsibilities of participants in an electronic fund transfer under the federal Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.)."

Page 30, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 26. [EFFECTIVE UPON PASSAGE] (a) This SECTION applies to a financial institution subject to IC 28-1-23-17, as added by this act.

(b) As used in this SECTION, "automated teller machine" has the meaning set forth in IC 28-1-23-17(b), as added by this act.

(c) As used in this SECTION, "automated teller machine operator" has the meaning set forth in IC 28-1-23-17(c), as added by this act.

(d) As used in this SECTION, "home financial institution" has the meaning set forth in IC 28-1-23-17(e), as added by this act.

(e) Not later than June 30, 2005, a consumer's home financial institution shall provide the written notice required by IC 28-1-23-17(j), as added by this act, to each automated teller machine operator that:

- (1) operates one (1) or more automated teller machines described in IC 28-1-23-17(j), as added by this act, before July 1, 2005; and
- (2) will continue to operate one (1) or more automatic teller machines described in IC 28-1-23-17(j), as added by this act, after June 30, 2005.

(f) Not later than December 31, 2006, a financial institution shall perform or cause to be performed any technical upgrade or modification necessary to enable an automated teller machine to provide the notice required by IC 28-1-23-17, as added by this act, in the form required by IC 28-1-23-17(h)(2), as added by this act.

(g) After December 31, 2006, a financial institution may not continue to operate an automated teller machine that lacks the technical capability to provide the notice required by IC 28-1-23-17, as added by this act, in the form required by

- 1 **IC 28-1-23-17(h)(2), as added by this act.**
- 2 **(h) This SECTION expires January 1, 2007."**
- 3 Renumber all SECTIONS consecutively.
(Reference is to HB 1179 as printed January 26, 2005.)

Representative Oxley